

ANNUAL REPORT

FISCAL YEAR 2006-2007

CAREER SERVICE REVIEW BOARD

STATE OF UTAH



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ANNUAL REPORT

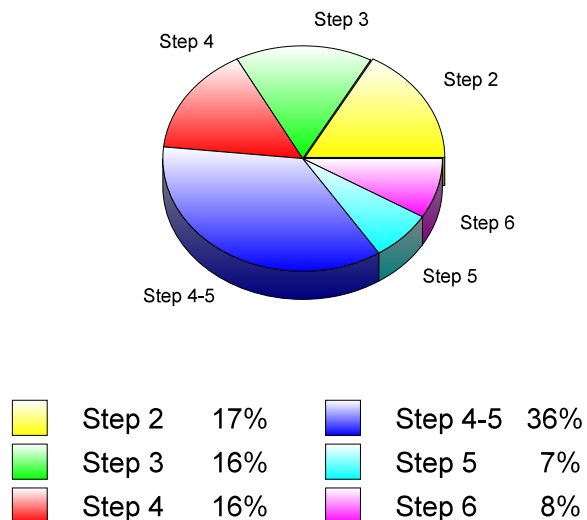
FISCAL YEAR 2006-2007

**LEVELS AT WHICH GRIEVANCE CASES
WERE RESOLVED DURING FISCAL YEAR 2006-2007**

LEVELS OF RESOLUTION	GRIEVANCE CASES	NO. OF EMPLOYEES
Step 2 Immediate Supervisor	12	12
Step 3 Agency/Division Director	11	11
Step 4 Department Head	11	11
Mediation Forum (Between Steps 4 & 5)	25	25
*Step 5 Evidentiary Hearing	5	5
Step 6 Appellate Review by Board	6	6
TOTALS:	70	70

*In addition to the five cases resolved at Step 5 during Fiscal Year 2006-2007, CSRB hearing officers held four additional hearings that are not reflected in this chart. These additional hearings are not reflected in this chart because the decisions were either issued after June 30, 2007, resolved at Step 6 or still on appeal to Step 6. These hearings however, are reflected in the material found at page 10.

LEVELS OF RESOLUTION BY PERCENT



**NUMBER OF APPEALS FROM DISCIPLINARY
PENALTIES AND LEVELS OF RESOLUTION
DURING FISCAL YEAR 2006-2007**

LEVEL	DISCIPLINARY* PENALTIES RESOLVED
Step 2	2
Step 3	4
Step 4	4
Mediation Forum (Between Steps 4 & 5)	19
**Step 5	5
Step 6	6
TOTAL:	40



***Note:** There are only four disciplinary actions designated by statute: written reprimand, suspension, demotion and dismissal (*Utah Code*, Section 67-19a-302(1)). No other issues qualify as disciplinary actions.

**** In addition, three of the four additional Step 5 evidentiary hearings held during Fiscal Year 2006-2007, were related to disciplinary matters. The Department's disciplinary decisions were upheld in all three of these additional hearings. Moreover, all but one of these Step 5 evidentiary hearings were appealed to Step 6 of the State's Grievance and Appeal Procedures.**

**RESOLUTION ON APPEALS FROM DISCIPLINARY ACTIONS
DURING FISCAL YEAR 2006-2007**

LEVEL	ACTION	NUMBER	DETERMINATION					
			AFFIRMED	MODIFIED	RESCINDED			
Step 2	Reprimand	0	0	0	0			
	Suspension	2	1	1	0			
	Demotion	0	0	0	0			
	Dismissal	0	0	0	0			
Step 3	Reprimand	1	0	1	0			
	Suspension	3	3	0	0			
	Demotion	0	0	0	0			
	Dismissal	0	0	0	0			
Step 4	Reprimand	2	2	0	0			
	Suspension	1	1	0	0			
	Demotion	0	0	0	0			
	Dismissal	1	1	0	0			
Mediation/Jurisdiction Forum	Reprimand	2	2	0	0			
	Suspension	10	7	3	0			
	Demotion	1	1	0	0			
	Dismissal	6	5	1	0			
Step 5	Reprimand	0	0	0	0			
	Suspension	0	0	0	0			
	Demotion	0	0	0	0			
	Dismissal	5	5	0	0			
Step 6	Reprimand	0	0	0	0			
	Suspension	1	1	0	0			
	Demotion	0	0	0	0			
	Dismissal	5	4	0	1			
TOTAL DISCIPLINARY APPEALS:		40	=	33	+	6	+	1

**FREQUENCY DISTRIBUTION OF GRIEVANCE ISSUES
DURING FISCAL YEAR 2006-2007**

ISSUES	OCCURRENCES
Dismissal	17
Suspension	17
Salary:	8
Pay Equity (5)	
ASI (1)	
Overtime (1)	
Promotion (1)	
Promotion	6
Administrative Actions	5
Written Reprimand	5
Working Conditions	4
Hostil Work Environment	2
Job Duties	2

ISSUES	OCCURRENCES
Recruitment	2
Career Mobility	1
Certification Testing	1
Constructive Discharge	1
Corrective Action	1
Demotion	1
Recruitment Testing	1
Transfer	1
Written Warning	1

TOTAL ISSUES GRIEVED: 76

Note: There were 70 grievance cases resolved; however, many cases had multiple issues grieved. Thus, the overall number of grievance issues resolved (76) exceeds the total number of employees' cases (70) that were resolved.

**GRIEVANCE CASES IDENTIFIED BY DEPARTMENTS
AND LEVELS OF RESOLUTION
DURING FISCAL YEAR 2006-2007**

<u>ADMINISTRATIVE SERVICES</u>	<u>ATTORNEY GENERAL</u>	<u>COMMUNITY AND CULTURE</u>
Step 2 - 0	Step 2 - 0	Step 2 - 1
3 - 0	3 - 0	3 - 0
4 - 0	4 - 0	4 - 0
4-5 - 1	4-5 - 1	4-5 - 0
5 - 0	5 - 0	5 - 0
6 - 1	6 - 0	6 - 0
<u>CORRECTIONS</u>	<u>HEALTH</u>	<u>HUMAN SERVICES</u>
Step 2 - 4	Step 2 - 1	Step 2 - 4
3 - 5	3 - 0	3 - 4
4 - 3	4 - 1	4 - 6
4-5 - 8	4-5 - 3	4-5 - 5
5 - 2	5 - 0	5 - 2
6 - 3	6 - 0	6 - 1
<u>NATURAL RESOURCES</u>	<u>PUBLIC SAFETY</u>	<u>TAX COMMISSION</u>
Step 2 - 0	Step 2 - 0	Step 2 - 0
3 - 0	3 - 2	3 - 0
4 - 1	4 - 0	4 - 0
4-5 - 0	4-5 - 1	4-5 - 1
5 - 0	5 - 0	5 - 0
6 - 0	6 - 1	6 - 0

TECHNOLOGY SERVICES

Step 2 - 0
3 - 0
4 - 0
4-5 - 1
5 - 0
6 - 0

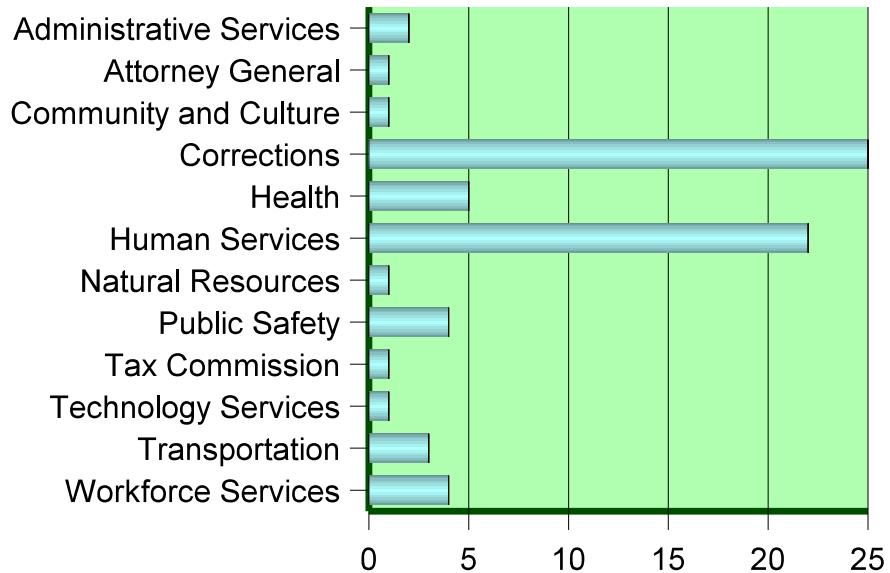
TRANSPORTATION

Step 2 - 0
3 - 0
4 - 0
4-5 - 3
5 - 0
6 - 0

**WORKFORCE
SERVICES**

Step 2 - 2
3 - 0
4 - 0
4-5 - 1
5 - 1
6 - 0

GRIEVANCES BY DEPARTMENT



GRIEVANCE CASES PER LEVEL RESOLVED
DURING FISCAL YEAR 2006-2007

STEP 2		
Immediate Supervisor	Cases: 12	Employees: 12

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
A.K.	Administrative Actions	Workforce Services
D.B.	Suspension	Health
G.L.T.	Promotion	Corrections
H.J.	Suspension	Human Services
H.J.	Hostile Work Environment	Corrections
J.R.	Working Conditions	Corrections
R.L.L.	Working Conditions	Community & Culture
S.F.A.	Salary/Pay Equity	Corrections
S.C.	Working Conditions Administrative Actions	Human Services
T.J.	Career Mobility	Human Services
T.R.J.	Working Conditions Transfer	Workforce Services
W.H.	Administrative Actions	Human Services

STEP 3		
DIVISION/AGENCY DIRECTOR	CASES: 11	EMPLOYEES: 11

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
A.C.	Suspension	Human Services
B.K.	Suspension	Human Services
B.R.	Recruitments	Corrections

C.D.	Certification Testing	Corrections
H.D	Salary/Pay Equity	Corrections
N.J.	Salary/Pay Equity	Corrections
N.J.K.	Hostile Work Environment	Human Services
P.J.	1. Promotion 2. Administrative Actions	Public Safety
S.S.	Suspension	Human Services
S.D.	1. Recruitment 2. Promotion	Corrections
S.J.	Written Reprimand	Public Safety

STEP 4		
DEPARTMENT HEAD	CASES: 11	EMPLOYEES: 11
<u>Employees</u>	<u>Issues</u>	<u>Department</u>
A.J.	Written Warning	Human Services
B.D.E.	Salary/ASI	Natural Resources
B.J.L.	Promotion	Corrections
C.M.	Written Reprimand	Human Services
D.K.	Salary/Pay Equity	Human Services
G.L.	Written Reprimand	Health
H.L.	Salary/Pay Equity	Human Services
N.R.K.	1. Promotion Salary 2. Recruitment Testing	Corrections
P.J.R.	1. Corrective Action 2. Suspension	Human Services
S.S.	Salary/Overtime	Corrections

T.P.K.

Dismissal

Human Services

MEDIATION/JURISDICTIONAL FORUM
BETWEEN STEPS 4 AND 5 CASES: 25

EMPLOYEES: 25

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
A.W.	Suspension	Human Services
B.A.	Promotion	Corrections
B.S.	Dismissal	Health
B.M.	Dismissal	Health
C.C.	Constructive Discharge	Human Services
E.R.	Suspension	Corrections
F.C.	Suspension	Corrections
G.E.	Written Reprimand	Administrative Services
K.V.	Suspension	Corrections
H.K.B.	Suspension	Human Services
J.K.M.	Job Duties	Corrections
L.G.	Administrative Actions	Technology Services
N.J.B.	Suspension	Transportation
O.D.	Dismissal	Public Safety
O.J.A.	Demotion	Health
O.D.	Dismissal	Workforce Services
P.W.	Suspension	Human Services
P.A.	Dismissal	Human Services
R.B.	Suspension	Transportation
R.S.	Written Reprimand	Tax Commission

S.T.R.	Dismissal	Corrections
S.R.E.	Job Duties	Corrections
S.T.	Salary	Corrections
T.A.	Suspension	Attorney General
W.T.P.	Suspension	Transportation

STEP 5		
EVIDENTIARY HEARING	CASES: 5	EMPLOYEES: 5

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
Lorin Blauer	Dismissal	Workforce Services
Ronald Law	Dismissal	Human Services
Patricia A. Magleby	Dismissal	Human Services
Hennie Mish	Dismissal	Corrections
Aaron Muir	Dismissal	Corrections

Note: In addition to the five cases resolved at Step 5 during Fiscal Year 2006-2007, CSRB Hearing Officers held hearings in the following four cases. These cases were heard at Step 5, but not resolved during Fiscal Year 2006-2007, because the final decision was either issued after June 30, 2006, resolved at Step 6 or still on appeal to Step 6.

<u>Employee</u>	<u>Issue</u>	<u>Department</u>	<u>Decision Issued</u>	<u>Status</u>
Parwinder Bhatia	Suspension	Administrative Services	January 9, 2007	Appealed to Step 6
Margaret Brimhall	Salary	Corrections	June 13, 2007	Appealed to Step 6
Rosario Montano	Dismissal	Tax Commission	January 31, 2007	Appealed to Step 6
Wendall Thayne	Dismissal	Corrections	October 26, 2006	Appealed to Step 6

STEP 6**APPELLATE REVIEW/BOARD CASES: 6****EMPLOYEES: 6**

<u>Employee</u>	<u>Issue</u>	<u>Department/Division</u>
Parwinder Bhatia	Suspension	Administrative Services
Dian Castagno	Dismissal	Human Services
Stanley Fieeiki	Dismissal	Public Safety
William Howard	Dismissal	Corrections
Vivian Kosan	Dismissal	Corrections
Wendall Thayne	Dismissal	Corrections

**JURISDICTIONAL HEARINGS AND
ADMINISTRATIVE REVIEWS OF THE FILE
CONDUCTED DURING FISCAL YEAR 2006-2007**

JURISDICTIONAL HEARINGS:

A jurisdictional hearing is a formal adjudication conducted according to the Utah Administrative Procedures Act. These hearings are held at the request of employees, agency management, or at the initiative of the CSRB administrator. Jurisdictional hearings address the four issues of: timeliness, direct harm, standing and eligibility to advance issues and remedies to the evidentiary/step 5 level, according to *Utah Code*, §67-19a-403(2)(b)(i)(Supp. 2000).

EMPLOYEE/CASE NO.**ISSUE****DEPARTMENT**

None Held

ADMINISTRATIVE REVIEWS OF THE FILE:

An administrative review of the file is an informal adjudication under the Utah Administrative Procedures Act. The contents of the CSRB's case files are reviewed and a written legal decision is issued. The decision is based upon a consideration of all documents contained in the CSRB's file. These reviews are conducted according to *Utah Code*, §67-19a-403(2)(b)(ii).

EMPLOYEE/DATE ISSUED	ISSUE	DEPARTMENT/CASE NUMBER
Christine Christensen February 21, 2007	Standing	Non-State Employee
Kimberly Boren Hyde January 11, 2007	Timeliness	Human Services – J.H. 161
Keane M. Janes October 18, 2006	Subject Matter	Corrections – J.H. 159
Gus Lewis February 13, 2007	Timeliness	Technology Services – J.H. 162
Julie Ann Olsen June 7, 2007	Subject Matter	Health – J.H. 163
Darryl Owens May 31, 2006	Standing	Workforce Services – J.H. 155
Spencer Robinson December 19, 2006	Timeliness	Tax Commission – J.H. 160
Randall E. Southwick October 18, 2006	Subject Matter	Corrections – J.H. 158
Tad P. Whitaker September 7, 2006	Timeliness	Transportation – J.H. 157

**JUDICIAL REVIEW BY THE COURTS
CASES DECIDED DURING FISCAL YEAR 2006-2007**

1. ***Brent N. Hughes, Grievant, v. Utah Department of Human Services, Agency.***
CSRB Case No. 8 CSRB 80

Designation in the Court of Appeals:

Utah Department of Human Services, Petitioner/Appellant, vs. Brent N. Hughes and Career Service Review Board, Respondents. Case No. 20050610-CA

Designation in the Utah Supreme Court:
Case No. 20050610-SC

Synopsis: Grievant appealed to the CSRB the Department's termination of his employment for a violation of the Hatch Act. The CSRB's hearing officer determined that Grievant had not violated the Hatch Act and the Board upheld the hearing officer's decision. The Department appealed to the Utah Court of Appeals. The Utah Court of Appeals, on its own volition, sent the case on certiorari to the Utah Supreme Court.

Decision: . The Utah Supreme Court reversed the Career Service review Board's decision and held that, consistent with congressional intent, the federal hatch Act does not preempt state law. As a result, state agencies may voluntarily comply with the hatch Act and make independent determinations regarding perceived violations of the Act with respect to their employees. However, the Court did remand the case for further consideration regarding the sufficiency of Hughes's due process claim.

2. ***Vivian Kosan, Grievant v. Utah Department of Corrections, Agency***
CSRB Case No. 9 CSRB 85

Designation in the Court of Appeals:

Department of Corrections, Petitioner v. Career Service Review Board and Vivian Kosan,
Appellate Case No. 20061091-CA

Synopsis: Grievant appealed to the CSRB her termination of employment by the Department of Corrections (DOC). The CSRB Hearing Officer upheld the DOC's decision to terminate Grievant's employment; however, the Board at Step 6 overturned the Hearing Officer's decision and ordered the DOC to return Grievant to a position equivalent to the one she held prior to her termination. The DOC appealed to the Utah Court of Appeals.

Decision: The parties reached a mediated Agreement at a conference with the Appellate mediation Office.

3. ***Darryl Owens v. Utah Department of Workforce Services***
Case No. J.H. 155 (2006)

Designation in Third Judicial District Court:

Darryl Owens, Plaintiff/Petitioner, vs. Tani Downing, Executive Director of the Utah Department of Workforce Services, Casey Erickson, and Robert W. Thompson as Administrator of the Career Service Review Board, Defendants/Respondents.

Civil No. 060911012

Synopsis: Grievant appealed his dismissal from employment with the Utah Department of Workforce Services to the CSRB. The CSRB denied jurisdiction based on the determination that Grievant was not a Career Service Employee nor had he ever attained Career Service Status since his Rehire. Grievant then appealed to the Third District Court. The Department then filed a Motion for Summary Judgment.

Decision: The Court reviewed the memorandum of law and uncontroverted supporting affidavits. Based on the evidence before the Court, it determined that there were no disputed issues of fact and the Department was entitled to judgment as a matter of law.

**JUDICIAL REVIEW BY THE COURTS
CASES PENDING DURING FISCAL YEAR 2006-2007**

1. Lorin Blauer, Grievant and Appellant v. Utah Department of Workforce Services, Agency and Respondent.

CSRB Case No. 9 CSRB 83

Designation in the Court of Appeals:

Lorin Blauer, Petitioner vs. Utah Department of Workforce Services an agency of the State of Utah, and Utah Career Service Review Board, Respondents.

Case No. 20060702-CA

2. Lorin Blauer, Grievant V. Utah Department of Workforce Services, Agency

Case No. 28 CSRB/H.O. 408

Designation in the Court of Appeals:

Lorin Blauer, Petitioner vs. Utah Department of Workforce Services, and Utah Career Service Review Board, Agencies and Respondents

Appellate Case No. 20061177-CA

3. Julie Ann Olson, Grievant v. Utah Department of Health, Agency

Case No. J.H. 163 (20067)

Designation in Third Judicial District Court:

Julie Ann Olson, Plaintiff/Petitioner, vs. Utah Department of Health, Defendant/Respondent.

Civil No. 070910001

**STATISTICAL SUMMARY OF ACTIVITIES
FOR FISCAL YEAR 2006-2007**

GENERAL:

Grievance cases resolved in the CSRB forum:	70
Career service employees participating in the grievance process:	70
Evidentiary/step 5 hearings conducted:	9
Evidentiary/step 5 hearings decisions issued:	9
Appellate/step 6 hearings conducted:	5
Appellate/step 6 decisions issued:	6
Jurisdictional hearings conducted/decisions issued:	0
Administrative reviews of the file conducted/issued	9
Cases resolved, mediated or otherwise settled following an appeal to Step 5:	8

CSRB BOARD CHAIRPERSON AND BOARD MEMBERS:

Step 6 decisions issued:	6
Orders/Rulings issued:	0

CSRB ADMINISTRATOR:

Prehearing/status conferences conducted:	30
Prehearing, status conference summaries/orders issued:	30
Other orders issued:	20
Conciliation conferences held:	4
Jurisdictional decisions issued:	9

CSRB HEARING OFFICERS/PRESIDING OFFICERS:

Step 5 hearing decisions issued	5
Prehearing conferences and motion conferences held:	6
Prehearing conference orders issued:	6
Orders Issued by CSRB Hearing Officers	5

THE COURTS:

CSRB decisions issued by the Utah Court of Appeals:	1
CSRB cases currently pending before the Utah Court of Appeals:	2
CSRB decisions issued by Utah District Courts	0
CSRB cases currently pending before the Utah District Courts	1

**ANNUAL GRIEVANCE CASES COMPARED
FOR TEN YEAR PERIOD
FISCAL YEARS 1997-1998 THROUGH 2006-2007**

FISCAL YEAR	TOTAL GRIEVANCES	JURISDICTIONAL DECISIONS	STEP 5 HEARINGS	STEP 6 HEARINGS
97-98	126	5	14	2
98-99	122	2	5	1
99-00	103	3	5	1
00-01	116	6	10	1
01-02	78	5	2	1
02-03	91	9	15	6
03-04	129	12	9	7
04-05	122	15	7	7
05-06	83	6	10	2
06-07	70	9	5	6

